



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Parts 51, 52, and 58

RIN 2900-AO69

Technical Changes to Remove Forms

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is making technical changes to remove from its regulations a series of forms related to VA payments for care provided to veterans at State homes. Official forms are not required to be reproduced in the Code of Federal Regulations (CFR), and all VA forms are more readily available on VA Web sites. Removing these forms from the CFR is an administrative action and will not impact the ability of the public to comment on any amendments to the information collections contained in these forms.

DATES: Effective Date: This final rule is effective [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Jo Anne Parker, Geriatrics and Extended Care Service (10NC4), Veterans Health Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-1785. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On January 6, 2000, VA added 38 CFR part 58 to the Code of Federal Regulations (CFR) for the express purpose of making it easier to find the forms required by 38 CFR part 51, Per Diem for Nursing Home Care of Veterans in State Homes. 65 FR 962, Jan. 6, 2000. Since that time, VA, State home program participants and administrators, and the general public have increasingly come to rely on VA's Publications Web site (<http://www.va.gov/vaforms>) as the primary resource for VA forms. Most of the forms in part 58 are used by the State homes in order to comply with VA regulations in 38 CFR parts 51 and 52. All of these State homes have Internet access, and the forms are also available at all VA medical centers.

In addition, several forms currently found in part 58 have been superseded, and the current forms are readily available for printing, downloading, or online submission on the VA Publications Web site. Updated versions are available on the Web site immediately—whereas the CFR is updated only once per year. Removing the forms from the CFR will ensure that the CFR does not reference and depict outdated forms. We are, therefore, removing 38 CFR part 58 and marking it as reserved for future use.

The cross references to part 58 in parts 51 and 52 will become obsolete with this rulemaking, and we are, therefore, amending parts 51 and 52 to remove the cross-references to part 58.

Administrative Procedure Act

In accordance with 5 U.S.C. 553(b)(A), the Secretary of Veterans Affairs finds that notice and public comment is not required for this rulemaking as it relates to agency procedure or practice. The forms being removed from the regulation are more readily

available on the VA Publications Web site (<http://www.va.gov/vaforms>). Additionally, the Secretary finds good cause pursuant to 5 U.S.C. 553(d)(3) to dispense with the delayed effective date requirement. The Secretary finds that a delayed effective date is unnecessary because this rulemaking involves agency procedure or practice and because the public will continue to have access to the most updated version of the forms on the VA Publications Web site.

Paperwork Reduction Act

Although this action contains provisions constituting collections of information, at 38 CFR part 51, part 52, and part 58, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521), no new or proposed revised collections of information are associated with this final rule. The information collection requirements for part 51, part 52, and part 58 are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control numbers 2900-0091 and 2900-0160.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This final rule is small business neutral as it removes forms that are outdated and more readily available elsewhere. The forms will continue to be required for part 51, Per Diem for Nursing Home Care of Veterans in State Homes, and for part 52, Per Diem for Adult Day Health Care of Veterans in State Homes, but removing them from the CFR will ensure that small businesses access the

required forms from a common location and thereby minimize the likelihood of relying upon an outdated form. Ensuring reporting is accomplished on the current, correct forms will be cost-neutral or will save money by avoiding potential duplication of effort. On this basis, the Secretary certifies that the adoption of this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Therefore, under 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” requiring review by OMB unless OMB waives such review, as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere

with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at <http://www1.va.gov/orpm/>, by following the link for "VA Regulations Published."

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this final rule are 64.014, Veterans State Domiciliary Care, and 64.015, Veterans State Nursing Home Care.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on July 29, 2013, for publication.

List of Subjects

38 CFR Part 51

Administrative practice and procedure, Claims, Day care, Dental health, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

38 CFR Part 52

Administrative practice and procedure, Claims, Day care, Dental health, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

38 CFR Part 58

Administrative practice and procedure, Claims, Day care, Government contracts, Health facilities, Nursing homes, Reporting and recordkeeping requirements, Veterans.

Dated: August 16, 2013

Robert C. McFetridge,
Director, Regulation Policy and Management,
Office of the General Counsel,

Department of Veterans Affairs.

For the reasons stated in the preamble, under the authority of [38 U.S.C. 501](#), the Department of Veterans Affairs amends 38 CFR parts 51, 52, and 58 as follows:

PART 51 -- PER DIEM FOR NURSING HOME CARE OF VETERANS IN STATE HOMES

1. The authority citation for part 51 continues to read as follows:

AUTHORITY: 38 U.S.C. 101, 501, 1710, 1720, 1741-1743; and as stated in specific sections.

2. Amend § 51.30(c) by removing “set forth at § 58.10 of this chapter” and adding, in its place, “which is available at any VA medical center and at <http://www.va.gov/vaforms>”.

3. Amend § 51.43 by:

- a. In paragraph (a), removing the second and third sentences and adding in their place a new sentence.

- b. In paragraph (b), removing “Claimed. This form is set forth in full at § 58.11 of this chapter.” and adding, in its place “Claimed, which is available at any VA medical center and at <http://www.va.gov/vaforms>.”

- c. In paragraph (f), removing “veteran. This form is set forth in full at § 58.18 of this chapter.” and adding, in its place “veteran, which is available at any VA medical

center and at <http://www.va.gov/vaforms>.”

The addition reads as follows:

§ 51.43 Per diem and drugs and medicines—principles.

(a) * * * These VA Forms, which are available at any VA medical center and at <http://www.va.gov/vaforms>, must be submitted at the time of admission, with any request for a change in the level of care (domiciliary, hospital care or adult day health care), and any time the contact information has changed. * * *

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4. Amend § 51.210 by:

a. In paragraph (c)(8), removing “set forth at § 58.14 of this chapter” and adding, in its place “, which is available at any VA medical center and at <http://www.va.gov/vaforms>”.

b. In paragraph (c)(9), removing “set forth at § 58.15 of this chapter” and adding, in its place “, which is available at any VA medical center and at <http://www.va.gov/vaforms>”.

c. In paragraph (c)(10), removing “set forth at § 58.16 of this chapter” and adding, in its place “, which is available at any VA medical center and at <http://www.va.gov/vaforms>”.

d. In paragraph (c)(11), removing “located at § 58.17 of this chapter” and adding, in its place “, which is available at any VA medical center and at <http://www.va.gov/vaforms>”.

PART 52 -- PER DIEM FOR ADULT DAY HEALTH CARE OF VETERANS IN STATE HOMES

5. The authority citation for part 52 continues to read as follows:

AUTHORITY: 38 U.S.C. 101, 501, 1741-1743; unless otherwise noted.

6. Amend § 52.30(c) by removing “set forth at 38 CFR 58.10.” and adding, in its place “which is available at any VA medical center and at <http://www.va.gov/vaforms>.”

7. Amend § 52.40 by:

a. In paragraph (a)(3), removing “set forth in full at 38 CFR 58.11.” and adding, in its place “available at any VA medical center and at <http://www.va.gov/vaforms>.”

b. In paragraph (a)(5), removing “set forth in full at 38 CFR 58.12 and 58.13, respectively.” and adding, in its place “available at any VA medical center and at <http://www.va.gov/vaforms>.”

8. Amend § 52.210 by:

a. In paragraph (c)(8), removing “set forth at 38 CFR 58.14” and adding, in its place “, which is available at any VA medical center and at <http://www.va.gov/vaforms>”.

b. In paragraph (c)(9), removing “set forth at 38 CFR 58.15” and adding, in its place “, which is available at any VA medical center and at <http://www.va.gov/vaforms>”.

c. In paragraph (c)(10), removing “set forth at 38 CFR 58.16” and adding, in its place “, which is available at any VA medical center and at <http://www.va.gov/vaforms>”.

d. In paragraph (c)(11), removing “located at 38 CFR 58.17” and adding, in its place “, which is available at any VA medical center and at <http://www.va.gov/vaforms>”.

PART 58 [Removed and Reserved]

9. Remove and reserve part 58, consisting of §§ 58.10 through 58.18.

[FR Doc. 2013-20357 Filed 08/20/2013 at 8:45 am; Publication Date: 08/21/2013]